

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. Claims 1, 5-7, 10-12, 19, 20, 24, 26, 31, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,868,080 to Wyler. Wyler teaches a plastic pallet having a deck supported by three stingers with bearing extending upward. A first support means (32) is located in the bottom as seen in figure 11. A second support means (32) is located at the bottom of the deck as seen in figure 7E and 7B. In the specification Wyler states that such supporting elements as shown in individual configurations in the drawings can also be concurrently combined (Wyler '080, Col. 5, lines 56-61). Elements (38,40) are considered to be the top deck and are snapped into the pallet with fastener (50,52,54,56). Therefore the top deck is considered to be capable of being removed without damage.

Claim Rejections - 35 USC § 103

2. Claims 1, 5-7, 10-12, 19, 20, 24-26 and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2003/0110990 to Apps in view of US Patent 5,868,080 to Wyler and US Patent 6,006,677 to Apps. Apps '990 teaches an embodiment of a pallet (fig. 14-16) that comprises second supporting means (111) retained in integrally formed cross support and bearing construction as substantially claimed. As seen in figure 14 the top deck is separately formed from the bearing construction. The second supporting means fit in channels (113,115) and is secured

when the top deck is attached. Apps '990 does not expressly disclose a first supporting means and a means of separating the top deck without damage. Wyler teaches a plastic pallet having a deck supported by three stingers with bearing extending upward. A first support means (32) is located in the bottom as seen in figure 11. Regarding claims 11 and 26, Wyler teaches adding holes in the reinforcing members to allow the reinforcing member (first supporting means) to be molded within the pallet. (Wyler '080, Col. 6, lines 32-37). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the pallet of Apps '990 by adding the first supporting means with holes as taught by Wyler to reinforce the strength of the pallet. Apps '990 in view of Wyler does not expressly disclose a means of separating the top deck without damage. Apps '677 teaches a plastic pallet having a top deck (10) and a bearing construction (40) separately formed via injection molding. Regarding claim 25, tubular edges extend downward from the top deck and have clamping projections (20) that engage an upper edge (62) of the bearing construction. The upper deck also includes openings (28,30) that allow a tool to separate the snap fitting of the clamping projections (20). At the time of the invention it would have been obvious for one of ordinary skill in the art to modify the pallet of Apps '990 in view of Wyler to add the clamping projection and upward lip to create snap fit connection between the upper deck and the bearing construction as taught by Apps '667 to allow the upper deck and bearing construction to be separated and replaced.

3. Regarding claim 29, Apps '990 in view of Wyler and Apps '677 does not expressly disclose a pair of second supporting means per each bearing element. As

seen in figure 1 of Wyler, Wyler teaches using two second supporting means for the center bearing element and also teaches that a reinforcing member (second supporting means) can be mechanically attached and therefore can be removed and replaced. Therefore at the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the pallet of Apps '990 in view of Wyler and Apps '677 by using two second supporting means per bearing element as taught by Wyler to add more strength and since It has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. See MPEP § 2144.04.

Allowable Subject Matter

4. Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. Due to the amendments new rejections have been presented above. In regards to Wyler, the top deck is now considered to be elements (38). In regards to the arguments that Apps '990 does not teach separate cross supports, as seen in figures 10a, 12a, and 15, the bearing construction of Apps '990, the bearing elements meet a lowered portion of the "plate" and it is the lower portions are considered the cross supports. Since there is no claimed structure that requires each cross support to be separate and since they are integrally formed anyway the examiner considers

there to be no reason why there cannot be a connecting plate between them. Other relevant arguments have been addressed in the new rejections above.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY M. AYRES whose telephone number is (571)272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. M. A./
Examiner, Art Unit 3637
4/19/2010

/Darnell M Jayne/
Supervisory Patent Examiner, Art
Unit 3637